

July 7, 2015

Michael J. Summersgill

Honorable Robert J. Conrad, Jr.  
U.S. District Court for the Western District of North Carolina  
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Re: *Intellectual Ventures I LLC et al. v. Bank of America, N.A.*, Case No. 13-cv-358-RJC-DSC  
(W.D.N.C.)

Dear Judge Conrad:

Pursuant to this Court's December 3, 2013 Order staying this case (Dkt. 54), Bank of America, National Association ("BANA") respectfully submits this letter regarding the status of BANA's petitions for Covered Business Method ("CBM") Review of the patents asserted in this case.<sup>1</sup>

On November 12, 2013, BANA submitted petitions requesting that the U.S. Patent Trial and Appeal Board ("PTAB") institute CBM review of the asserted patents. On May 22, 2014, the PTAB granted BANA's requests for CBM review of all four remaining asserted patents in this case. In April and May 2015, the PTAB issued final written decisions cancelling all claims of all four patents. After reviewing the submissions by both BANA and IV and hearing oral argument, the PTAB determined that all claims of all four patents are directed to unpatentable subject matter under 35 U.S.C. § 101:

- *Bank of America, N.A., et al. v. Intellectual Ventures I LLC*, CBM 2014-00028, Paper No. 52 at 2 (May 18, 2015) ('137 Patent CBM Final Written Decision) ("We conclude for the reasons that follow that Petitioner has shown by a preponderance of the evidence that claims 1-24 of the '137 patent are unpatentable.") (attached as Exhibit A);
- *Bank of America, N.A., et al. v. Intellectual Ventures I LLC*, CBM 2014-00029, Paper No. 38 at 3 (May 19, 2015) ('701 Patent CBM Final Written Decision) ("We conclude for the reasons that follow that Petitioner has shown by a preponderance of the evidence that claims 1-18 of the '701 patent are unpatentable.") (attached as Exhibit B);
- *Bank of America, N.A., et al. v. Intellectual Ventures I LLC*, CBM 2014-00030, Paper No. 32 at 2 (April 24, 2015) ('382 Patent CBM Final Written Decision) ("We conclude for

<sup>1</sup> Plaintiffs Intellectual Ventures I LLC and Intellectual Ventures II LLC (collectively "IV") are currently asserting U.S. Patent Nos. 8,083,137 ("the '137 patent"); 7,664,701 ("the '701 patent"); 7,603,382 ("the '382 patent"); and 7,260,587 ("the '587 patent") (collectively, the "asserted patents") against BANA. IV also asserted U.S. Patent No. 6,182,894 ("the '894 patent") in its initial complaint, but IV subsequently stipulated to a dismissal with prejudice of its '894 patent claims against BANA. (Dkt. Nos. 56-57.)

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the reasons that follow that Petitioners have shown by a preponderance of the evidence that claims 1-23 of the '382 patent are unpatentable.”) (attached as Exhibit C);

- *Bank of America, N.A., et al. v. Intellectual Ventures II LLC*, CBM 2014-00033, Paper No. 47 at 2 (May 18, 2015) ('587 Patent CBM Final Written Decision) (“We conclude for the reasons that follow that Petitioner has shown by a preponderance of the evidence that claims 1-18 of the '587 patent are unpatentable.”) (attached as Exhibit D).

On May 26, 2015, IV filed a petition for rehearing of the PTAB's final decision in the '382 patent CBM proceeding. The PTAB denied that petition on June 25, 2015. The deadlines for filing petitions for rehearing of the PTAB's final decisions as to the other three asserted patents have expired. As a result, the PTAB decisions are now final, subject to appeal, if any, in the Federal Circuit.<sup>2</sup>

Sincerely,



Michael J. Summersgill

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<sup>2</sup> On July 6, 2015, the Federal Circuit also affirmed a decision of the United States District Court for the Eastern District of Virginia invalidating claims 5-11 of the '137 patent and claims 1-5, 16, 17, and 19-22 of the '382 patent as directed to unpatentable subject matter under 35 U.S.C. § 101. The Federal Circuit's decision is attached as Exhibit E.